

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF WORKERS' COMPENSATION

**NOTICE OF MODIFICATION TO TEXT OF
PROPOSED REGULATIONS**

Subject Matter of Regulations: Medical-Legal Fee Schedule

TITLE 8, CALIFORNIA CODE OF REGULATIONS
SECTIONS 9793 and 9795

NOTICE IS HEREBY GIVEN that the Acting Administrative Director of the Division of Workers' Compensation (hereinafter "Administrative Director"), exercising the authority vested in the Administrative Director by Labor Code Sections 133, 4627, 5307.3, and 5307.6, proposes to modify the text of the following proposed amendments to Title 8, California Code of Regulations.

Section 9793 Definitions

Section 9795 Reasonable Level of Fees for Medical-Legal Expenses, Follow-up, Supplemental and Comprehensive Medical-Legal Evaluations, and Medical-Legal Testimony

**PRESENTATION OF WRITTEN COMMENTS AND DEADLINE FOR SUBMISSION
OF WRITTEN COMMENTS**

Members of the public are invited to present written comments regarding these proposed modifications. **Only comments directly concerning the proposed modifications to the text of the regulations will be considered and responded to in the Final Statement of Reasons.**

Written comments should be addressed to:

Maureen Gray, Regulations Coordinator
Department of Industrial Relations
Division of Workers' Compensation
Post Office Box 420603
San Francisco, CA 94142

The Division's contact person must receive all written comments concerning the proposed modifications to the regulations no later than 5:00 p.m. on Thursday, April 13, 2006. Written comments may be submitted by facsimile transmission (FAX), addressed to the contact person at (510) 286-0687. Written comments may also be sent electronically (via e-mail), using the following e-mail address: dwcrules@hq.dir.ca.gov.

COMMENTS TRANSMITTED BY E-MAIL OR FACSIMILE

Due to the inherent risks of non-delivery by facsimile transmission and email transmission, the Administrative Director suggests, but does not require, that a copy of any comments transmitted by facsimile transmission or email transmission also be submitted by regular mail.

Comments sent to other e-mail addresses or other facsimile numbers will not be accepted. Comments sent by e-mail or facsimile are subject to the deadline set forth above for written comments.

AVAILABILITY OF TEXT OF REGULATIONS AND RULEMAKING FILE

Copies of the original text and modified text with modifications clearly indicated, and the entire rulemaking file, are currently available for public review during normal business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays, at the offices of the Division of Workers' Compensation. The Division is located at 1515 Clay Street, 17th Floor, Oakland, California.

Please contact the Division's regulations coordinator, Ms. Maureen Gray, at (510) 286-7100 to arrange to inspect the rulemaking file.

The specific modifications proposed include changes to the text of the proposed amendments to Title 8, California Code of Regulations:

Section 9793 Definitions

Section 9795 Reasonable Level of Fees for Medical-Legal Expenses, Follow-up, Supplemental and Comprehensive Medical-Legal Evaluations, and Medical-Legal Testimony

DOCUMENTS SUPPORTING THE RULEMAKING FILE

- Comments from various interested parties concerning the regulations have been added to the rulemaking file.

FORMAT OF PROPOSED MODIFICATIONS

Proposed Text Noticed for 45-Day Comment Period:

The new text is indicated by underlining, thus: underlined language.

Proposed Text Noticed for This 15-Day Comment Period on Modified Text:

Deletions from the regulatory text as proposed in December, 2005 are indicated by double strike-through, thus: ~~deleted language~~.

Additions to the regulatory text as proposed in December, 2005 are indicated by a double underline, thus: added language.

SUMMARY OF PROPOSED CHANGES

Modifications to Section 9793 Definitions

(a) In subdivision (a), a definition for the term *medical research* is added. The following subdivisions are renumbered.

Modifications to Section 9795 Reasonable Level of Fees for Medical-Legal Expenses, Follow-up, Supplemental and Comprehensive Medical-Legal Evaluations, and Medical-Legal Testimony

(c) In subdivision (c), within the description of the ML 103, a requirement is added that for specification of complexity factor (3), the physician is to excerpt or furnish copies of medical evidence relied upon. The requirements to obtain an additional complexity factor in paragraph

(7) are revised, so that the evaluation must involve either of three or more employers, three or more injuries to the same body system or region, or two or more injuries to two or more separate body systems or regions. Within the description of the ML 104, requirements are added that for specification of complexity factor (3), the physician is to provide a list of citations to the sources reviewed, and to excerpt or furnish copies of medical evidence relied upon.

(f) The dates in subdivision (f) were changed from 2005 to 2006.